

**Clean Water Division  
Weekly News  
November 5, 2015**

**Potential or Expected Press Stories**

- None

**Contact from Elected Officials**

- None

**Freedom of Information Requests of RA Interest**

- None

**Travel/Meetings/Speaking Engagements for Division Directors**

- On November 11, Joan will give the keynote address at Clean Ocean Action's Debris Free Sea Conference in Lincroft, NJ.

**Indian Consultations Requested or Initiated**

- None

**East-of-Hudson Septic Repair Program.** EPA, NYSDOH and NYSDEC had a productive discussion this week about NYCDEP's proposed new program to assist homeowners with septic repairs in the Croton Falls and Cross River basins. While NYCDEP would prefer to limit this to a "financial hardship" program only, the regulators discussed some options for modest expansion beyond the City's current proposal.

**PFOA Contamination at Hoosick Falls-** Region 2 has conducted a multi-Division meeting to discuss Perfluorooctanoic Acid (PFOA) contamination at the Hoosick Falls public water system facility as well as some private wells in that area. PFOA is a human-made chemical used in the process of making Teflon and other similar chemicals is not currently regulated, but being reviewed under the Unregulated Contaminant Monitoring Rule (UCMR). Sampling data collected by the local public water system indicates levels above Minimum Reporting Level and some are above the EPA's provisional health advisory of 400 ppt. EPA has had preliminary discussions with NYSDOH regarding next steps to address the contamination and need for more sampling of the wells.

**New Jersey Drought Conditions** – the North East, Central, and Coastal North Water Supply of New Jersey are currently under a "Drought Watch". See the map on the NJ Drought Information webpage: <http://www.njdrought.org/>. NJDEP may up-grade the designation to "Drought Warning" later this month if water levels do not improve and could also include drought designations for the remaining water supplies in New Jersey.

**U.S. Coral Reef Task Force:** The 34<sup>th</sup> meeting of the U.S. Coral Reef Task Force was held last week in Fajardo, PR. The RA represented EPA. The principals adopted *Resolution 34.1 – USCRTF Framework for FY16-FY20 Priority Action*; the *Watershed Partnership Strategy*; and the *FY11-14 Accomplishments Report*. The Task Force set a path establishing a strategy of operating over the next 5 years. Issues discussed included: Climate change; watershed partnerships; and the status of coral reefs in Puerto Rico. NOAA reported out on the third global coral bleaching event that is happening now and is expected to extend into 2016. The RA presented on the EPA Trash Free Waters program, and raised the awareness of the Task Force to the demonstrated threat of micro-plastics to coral health. Comments expressed during the public comment period included assorted impacts in Vieques from uncontrolled fishing, mangrove clearing and general lack of enforcement; 301(h) in PR waivers allowing discharge of primary treated wastewater; and uncontrolled sewage discharge in Vega Baja.

**Caribbean Coral Reef Partnership:** Region 2 convened the 3rd annual Principals Meeting of the Caribbean Coral Reef Partnership. The meeting was well attended by principals from 11 of the 13 member agencies. The co-chairs of the USCRTF, Eileen Sobeck (NOAA) and Lori Faeth (DOI) attended the meeting to participate in discussions on how the Caribbean Coral Reef Partnership complements the U.S. Coral Reef Task Force. The principals also discussed the priority watersheds (St. Thomas East End Reserve, USVI and the Northeast End Reserve, PR), the proposed marina at Coral Bay, Trash Free Waters, and ocean acidification.

**NYSDEC Final Rule on the New York/New Harbor Class I/SD Rule:** The final rulemaking will appear in the November 4, 2015 State Register and the Environmental Notice Bulletin (ENB). There will also be a notice in NYSDEC's "Making Waves on November 6, 2015. In summary, this rule will require that the quality of Class I and Class SD saline surface waters throughout the New York/New Jersey Harbor be suitable for primary contact recreation, such as swimming. This rulemaking is necessary to meet the "swimmable" goal of the federal Clean Water Act and represents a significant step in our mutual efforts to improve the quality of New York City's waters. NYSDEC is currently working to get the requisite Attorney General certification and assemble the package for submission to EPA.

**Water Quality Standards (WQS) Meeting with NYSDEC and the Saint Regis Mohawk Tribe (SRMT):** This week CWD will be in Albany to meet with the NYSDEC and SRMT to advance their efforts in completing their respective WQS triennial review/revision processes. Because the New York and SRMT WQS are very consistent, this is an opportunity to work together to ensure that both packages reflect the current science and regulatory requirements. Both packages are due in 2016.

**Hudson River Pier 54 Comments:** The RA has submitted a comment letter to the U.S. Army Corps of Engineers (USACE) under Part IV 3(a) of the 1992 Section 404(q) Memorandum of Agreement citing concerns that the proposed Pier 54 project in New York City on the Hudson River may result in substantial and unacceptable impacts to an aquatic resource of national importance. Under this agreement, EPA has 25 days after the close of the comment period to notify USACE of our opinion regarding whether a substantial and unacceptable impact to an aquatic resource of national importance will result from the project. We have been informed that USACE has extended the initial comment period to November 19.

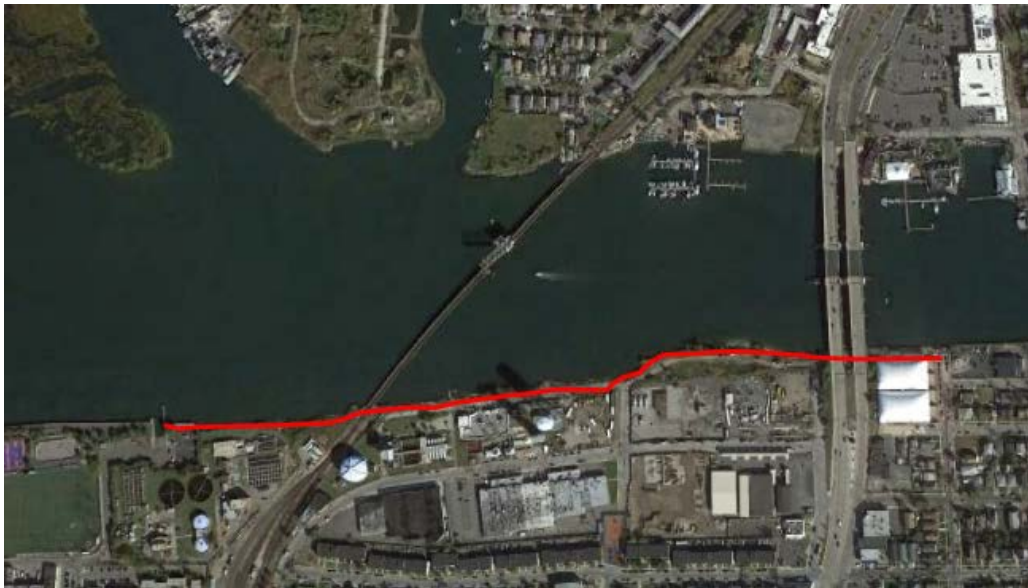
**Abandon Boat Removal:** NYC has begun implementing an abandoned boat removal program to remove some of the approximately 600 abandoned boats from around New York Harbor. Many of the boats were washed up onto shorelines as a result of Superstorm Sandy or were illegally abandoned by their owners. The New York-New Jersey Harbor & Estuary Program and EPA formed a work group in 2013 that worked with the city, the Federal Emergency Management Agency and many others to coordinate removal of the boats. Region 2 also prepared an Assessment and Hauling Away of Abandoned Boats (AHAAB) Plan that highlighted the issues and authorities of agencies to address abandoned boats and marine debris. CWD's Dredging, Sediment and Oceans Section provided ship time and logistical support to assist in surveying the extent of abandoned boats in the Shell Bank and Gerritsen Creek area which ultimately assisted in funding a portion of the effort. These efforts were highlighted in a *New York Times* article this week.

**Long Island Groundwater Meeting:** EPA Region 2 and The Nature Conservancy hosted over twenty-five Long Island water quality stakeholders at the sixth Long Island Groundwater meeting in Cold Spring Harbor, New York on October 30. Nine speakers spoke and engaged with the group - ranging from experts at the national level from EPA's Office of Water to state and local officials, EPA and academic scientists and modelers to the New York State Seagrass Specialist. The speakers addressed different aspects of establishing and using quantifiable water quality and ecological endpoints. The information provided by the final speaker on the factors necessary for survival of Long Island species of seagrass proved to be somewhat sobering. Local Long Island species of seagrass are particularly sensitive to temperature, light attenuation, and nitrate levels. Preservation of seagrass is challenging enough – restoration might be out of reach for Long Island species. A more realistic endpoint of goal may be improved water clarity. There were other perhaps more hopeful lessons learned based on work in Massachusetts estuaries and Tampa Bay which stressed the importance of early success in building momentum and support even if the success is of limited geographic scope.

**National Wetlands Condition Assessment:** On November 5, the *Federal Register* will publish a comment period for the draft 2011 National Wetlands Condition Assessment (NWCA) public report. This is the first report to assess the ecological condition of wetlands on a national scale and is the latest in a series of reports under EPA's National Aquatic Resource Program documenting the condition of the nation's waters. The report describes the results of a survey of the condition of more than 1,000 wetland sites nationwide using standardized field and lab protocols. The NWCA used vegetation characteristics to assess biological condition and other field measures to assess the extent of common chemical, physical, and biological wetland stressors. It estimates the extent of wetland area in good, fair, and poor condition nationally and by ecoregion. EPA developed the National Wetlands Condition Assessment to answer basic questions about the extent to which the nation's wetlands support healthy ecological conditions and the prevalence of key stressors. The NWCA complements the U.S. Fish and Wildlife Service Wetland Status and Trends Program, which characterizes changes in wetland acreage across the United States. Paired together, these two efforts provide comparable, scientifically-defensible information documenting the current status and, through future assessment surveys, the trends in both wetland quantity (area) and quality (ecological condition).

**Update on the Whitehill (Falconer, Chautauqua County, NY) Wetlands Enforcement Case:** During this past summer, DOJ brought in technical experts to assess jurisdiction for the wetlands at the Whitehill properties and for describing the history of filling. The experts have undertaken multiple field visits to the site, with Watershed Management Branch (WMB) logistical assistance (provided by WMB via the Buffalo District Interagency Agreement for Wetlands Enforcement). The experts have also prepared detailed technical reports for which multiple drafts are being reviewed and commented on by WMB. The expert's work indicates that the wetlands are indeed Clean Water Act wetland and that the wetlands are adjacent to Cassadaga Creek (within the meaning of the Rapanos Guidance) and that Cassadaga Creek is a "Traditional Navigable Water." This confirms what we knew. In referring the case to DOJ, we presented the evidence that these wetlands are high quality federal wetlands adjacent to Cassadaga Creek and that Cassadaga Creek is a Traditional Navigable Water. Discovery is proceeding for the Whitehill case and the first mediation session is December 8.

**Bulkhead in Long Beach, NY:** On October 9, the U.S. Army Corps of Engineers (USACE) issued a Public Notice regarding an application by the City of Long Beach to construct a tall bulkhead along Reynolds Channel. Flooding associated with Hurricane Sandy severely damaged the central north shore of Long Beach and vulnerable utilities (sewage treatment, power, water) are described within the project area. The 2,500-foot long project includes 1,700 feet of steel sheeting and would require filling 2.2 acres of intertidal shoreline and sand flats. Due to a lack of information justifying the proposed fill, we cannot determine whether the aquatic impacts can be reduced by moving the bulkhead inland. In addition, no mitigation was proposed by the applicant. Despite a three-week comment period extension, the applicant was unable to provide the necessary documentation, so on October 29 we sent USACE a 404(q) 3a preliminary objection letter and again requested the opportunity to obtain and review additional project information. On that same day, October 29, USACE suspended processing of the application and sent a letter to the applicant requesting the same information we repeatedly sought: project alternatives, aquatic fill minimization and mitigation. A meeting with the applicant and Army Corps is scheduled for November 24, and our final objection letter, if we choose to send one, is due the same day. We will likely seek another time extension from the Corps.



*Photo: The red line indicates the approximate location of the planned Long Beach bulkhead project.*

**Long Island Sound Futures Fund:** The National Fish and Wildlife Foundation will host an event on November 12 in Stratford, CT, to announce the 2015 Long Island Sound Futures Fund awardees. Curt Spalding will attend on behalf of EPA. A draft press release is being circulated to both regional press offices for review. A total of 22 projects will be awarded. Nine are located in Connecticut (totaling \$600,000) and 13 in New York (totaling \$750,000). The site of the event will allow for a tour of the Sacred Heart University project at Stratford Point to restore the function and value of a 28 acre coastal ecosystem by creating a “living shoreline.” The Stratford Point peninsula juts out into Long Island Sound on the flight path of thousands of migrating birds. The area is the site of a former shooting range that has been remediated and is currently managed by Audubon CT.